

HOUSE JOINT RESOLUTION NO. 27

INTRODUCED BY B. BENNETT

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT AN APPROPRIATE INTERIM COMMITTEE STUDY THE PERSONAL PRIVACY CONCERNS THAT ARISE OUT OF THE COLLECTION, MAINTENANCE, AND DISSEMINATION OF PERSONAL INFORMATION THROUGH ELECTRONIC MEDIA AND TO MAKE RECOMMENDATIONS FOR SECURING THE PERSONAL INFORMATION AND PRIVACY RIGHTS OF MONTANANS.

WHEREAS, all Montanans have a right of privacy in information pertaining to them, and the right to privacy is a personal and fundamental right protected by Article II, section 10, of the Montana Constitution, which states that "the right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest"; and

WHEREAS, the right to privacy is being threatened by the indiscriminate collection, maintenance, and dissemination of personal information and the lack of effective laws and legal remedies; and

WHEREAS, the increasing use of computers and other sophisticated types of information technology has greatly magnified the potential risk to individual privacy that can occur from the collection, maintenance, and dissemination of personal information; and

WHEREAS, businesses are allowed to collect and sell customer purchase histories without the knowledge of Montanans, which may include purchase records for such items as over-the-counter medicine, alcohol, cigarettes, books, and videos; and

WHEREAS, mobile phones collect detailed records regarding an individual's GPS location, which can be collected and used by software providers without the individual's knowledge and, in some cases, may be sold indiscriminately to third parties; and

WHEREAS, detailed purchase histories, GPS location information, and web search and surfing histories can all be gathered without Montanans' knowledge or consent and may be sold to data brokers for profit; and

WHEREAS, businesses are currently allowed to sell information about the caliber and quantity of ammunition that Montanans purchase; and

WHEREAS, a stolen identity can destroy an individual's credit, housing situation, and reputation and can cause extensive financial damage; and

1 WHEREAS, there is currently no requirement that patients be notified if there is a security breach of their  
2 medical records; and

3 WHEREAS, the sale, disclosure, and storage of personal data increases the opportunity for an  
4 individual's identity to be stolen; and

5 WHEREAS, Montanans' personal information may be sold to insurance companies, marketers, the  
6 federal government, or other entities and used to exploit Montanans or to limit their personal freedoms; and

7 WHEREAS, in order to protect the privacy of Montanans, it is necessary that the collection, maintenance,  
8 and dissemination of personal information be subject to strict limits.

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10 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE  
11 STATE OF MONTANA:

12 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to  
13 section 5-5-217, MCA, or direct sufficient staff resources to:

14 (1) analyze the effects of advances in technology that impact personal privacy;

15 (2) consider ways to uphold Montanans' constitutional right to privacy while balancing the interests of  
16 businesses and governmental agencies;

17 (3) evaluate the need for security standards to prevent data breaches as those standards apply to  
18 businesses and governmental agencies that store or process personal information;

19 (4) review Montana's definition of personal information and evaluate whether any laws should be  
20 expanded to include medical records, health insurance information, or other personal data;

21 (5) review existing laws related to data breach notification and identify laws that should be strengthened  
22 to ensure that Montanans' privacy rights are protected;

23 (6) research and evaluate methods for enabling citizens to protect their personal information from  
24 collection and disclosure, including but not limited to the following:

25 (a) an individual must be given notice when the individual's personal information is being collected;

26 (b) personal information may be used only for authorized purposes and not for any other purposes;

27 (c) personal information may not be collected or disclosed without an individual's consent;

28 (d) personal information that is collected must be kept secure from potential abuses;

29 (e) an individual must be informed as to who is collecting the individual's personal information;

30 (f) an individual must be allowed to access the individual's personal information and to make corrections

1 to inaccurate data; and

2 (g) individuals must have a method available to hold data collectors accountable for failures to keep  
3 information secure or for improper disclosures.

4 BE IT FURTHER RESOLVED, that the committee consider the knowledge and advice of:

5 (1) state agencies that deal with the exchange of personal information;

6 (2) business owners;

7 (3) experts in the field of information security and data forensics;

8 (4) the Secretary of State;

9 (5) Internet service providers;

10 (6) information technology providers; and

11 (7) any other agencies or organizations considered appropriate by the committee.

12 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review  
13 requirements, be concluded prior to September 15, 2012.

14 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,  
15 comments, or recommendations of the appropriate committee, be reported to the 63rd Legislature.

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